

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**LAURA FAUGHT and STEVEN  
FAUGHT, on behalf of themselves and  
all others similarly situated,**

**Plaintiffs,**

**v.**

**AMERICAN HOME SHIELD  
CORPORATION,**

**Defendant.**

**Case No.: 2:07-CV-1928-RDP**

**DEFENDANT’S REPORT REGARDING  
THE STATUS AND POSTURE OF THE *EDLESON* LAWSUIT**

Defendant American Home Shield Corporation (“AHS”) submits the following report in response to the Court’s July 9, 2010 Order (Doc. 149) requesting a report regarding the status and posture of the lawsuit styled *Karon and L.B. Chip Edleson v. American Home Shield of California, Inc., et al.*, Case No. 37-2007-00071725-CU-BT-CTL currently pending in the Superior Court of California for the County of San Diego (the “*Edleson* action”).

On October 9, 2009, the Edlesons filed a motion for a preliminary injunction, alleging that “Class Members are being irreparably damaged” by AHS. (Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for Preliminary Injunction (“Mem.”) at 1 (excerpts as Ex. A).) The Edlesons’ motion

focused on their allegations regarding the denial of claims and contractor scoring methodologies (which they claim incentivized contractors to deny claims), areas that are addressed by the settlement in this case and specifically identified in AHS's Status Report Regarding Business Practices Changes filed with this Court (Doc. 97). The Edlesons' motion makes clear that they seek this relief not on their own behalf<sup>1</sup>, but on behalf of the "Class."<sup>2</sup> (*See, e.g.*, Motion (excerpts at Ex. B) at 1; Mem. at 1, 2.)

Shortly after the Edlesons filed their motion for preliminary injunction, and before any discovery could be conducted regarding that motion, this Court entered an Order on October 30, 2009 enjoining the continued prosecution of the *Edleson* action. (Doc. 43.) The California court, observing this Court's Order, then stayed the *Edleson* action. The parties to the *Edleson* action thereafter attended a status conference in California on June 11, 2010, at which time counsel for the defendants advised the court that the stay remained in effect; the Edlesons' counsel acknowledged, or at least did not dispute, that fact. (Decl. of J. Feldman (Ex. C) at ¶ 3.) The judge then ordered the parties to return on October 15, 2010 for another status conference. At the June 11 status conference, counsel for the Edlesons

---

<sup>1</sup> The Edlesons have not been customers of AHS since 2005. (Doc. 108, Ex. A).

<sup>2</sup> Not only do the Edlesons identify the beneficiaries of their requested injunction as the "Class," but they appear to ask the California court to make AHS change its business practices on a national level, something AHS is already doing as a result of the settlement approved by this Court.

repeated his intention to move forward with the pending preliminary injunction motion. (Decl. of J. Feldman (Ex. C) at ¶ 3.)

The Edlesons claim that they are not seeking class-wide relief, but are instead pursuing their “individual claims” under the CLRA and the UCL, with an intent to obtain “all relief” available thereunder. (Doc. 150 at 3.) But the relief they seek in their pending motion for preliminary injunction is in fact class-wide. The effect of any injunction under the CLRA would be for AHS to change its business practices with respect to the *public at large*, which necessarily includes members of the class here, an effect that would directly interfere with the settlement finally approved by this Court. (See Doc. 108 at 7-8 (“California law is clear that [the Edlesons’] claim for injunctive relief [under the CLRA] is statutorily intended to benefit the public, not the individual seeking injunctive relief,” *citing Broughton v. Cigna Healthplans*, 988 P.2d 67, 77 (Cal. 1999)).)

/s/ John E. Goodman  
One of the Attorneys for Defendant  
American Home Shield Corporation

OF COUNSEL:

BRADLEY ARANT BOULT CUMMINGS LLP  
One Federal Place  
1819 Fifth Avenue North  
Birmingham, Alabama 35203  
Telephone: (205) 521-8000  
Facsimile: (205) 521-8800

**CERTIFICATE OF SERVICE**

I hereby certify that on July 16, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

D. Frank Davis, Esq.  
John E. Norris, Esq.  
Wesley W. Barnett, Esq.  
Davis & Norris LLP  
2154 Highland Avenue  
Birmingham, AL 35205  
[fdavis@davisnorris.com](mailto:fdavis@davisnorris.com)  
[jnorris@davisnorris.com](mailto:jnorris@davisnorris.com)  
[wbarnett@davisnorris.com](mailto:wbarnett@davisnorris.com)

*Attorneys for Plaintiffs: Laura Faught and Steven Faught*

Lea Bone, Esq.  
Bates & Bone LLP  
2154 Highland Avenue  
Birmingham, AL 35205  
[lbone@batesbone.com](mailto:lbone@batesbone.com)

*Attorney for Plaintiffs: Laura Faught and Steven Faught*

Kirkland E. Reid, Esq.  
Jones, Walker, Waechter, Poitevent, Carrere & Denegre, L.L.P.  
Post Office Box 46  
Mobile, Alabama 36601  
[kreid@joneswalker.com](mailto:kreid@joneswalker.com)

*Attorney for L.B. Chip Edleson and Karon Edleson*

John W. Davis  
Law Office of John W. Davis  
501 W. Broadway, Suite 800  
San Diego, CA 92101  
[john@johnwdavis.com](mailto:john@johnwdavis.com)

*Attorney for Intervenors: John Chapon and Miriam Chapon*

R. Stephen Griffis  
R. Stephen Griffis PC  
2100 Riverhaven Drive, Suite 1  
Hoover, AL 35244-2532  
[rsglaw@bellsouth.net](mailto:rsglaw@bellsouth.net)  
*Attorney for Intervenors: John Chapon and Miriam Chapon*

Charles M. Thompson  
Charles M. Thompson PC  
5615 Canongate Lane  
Birmingham, AL 35242  
[mchapmanlaw@bellsouth.net](mailto:mchapmanlaw@bellsouth.net)  
*Attorney for Intervenor: Charles M. Thompson*

Kearney D. Hutsler  
Hutsler Law Firm  
2700 Highway 280, Suite 320W  
Birmingham, AL 35223  
[kdhlaw@hutslerlawfirm.com](mailto:kdhlaw@hutslerlawfirm.com)  
*Attorney for Objectors: Connie Pentz, John Pentz, Sharon Lee,  
Thomas Arrington and Todd Pettitt*

and I hereby certify that I have served by facsimile and U.S. Mail the document to the following non-CM/ECF participants:

Francis A. Bottini, Jr., Esq.  
Brett M. Weaver, Esq.  
JOHNSON BOTTINI, LLP  
501 W. Broadway, Suite 1720  
San Diego, CA 92101  
Telephone: (619) 230-0063  
Facsimile: (619) 238-0622  
*Attorneys for Karon Edleson and L.B. Chip Edleson;  
Objectors: Vivian F. Johnson, Janet Tzendzalian, Rosalyn Urbanek,  
Merlyn D. Ling, Donald P. Leach, Robert W. Shepard, and Luz A.  
Shepard*

David J. Worley, Esq.  
Page Perry LLC  
1040 Crown Pointe Parkway  
Suite 1050  
Atlanta, Georgia 30338  
Telephone: (770) 673-0047  
Facsimile: (770) 673-0120  
*Attorney for Karon and L.B. Chip Edleson*

Edward D. Chapman, Esq.  
CHAPIN WHEELER LLP  
550 West "C" Street, Suite 2000  
San Diego, California 92101  
Telephone: (619) 241-4810  
Facsimile: (619) 955-5318  
*Attorney for Karon and L.B. Chip Edleson*

Frank H. Tomlinson, Esq.  
15 North 21<sup>st</sup> Street, Suite 302  
Birmingham, AL 35203  
Telephone: (205) 326-6626  
Facsimile: (205) 328-2889  
*Attorney for Objectors: John Howe, Jenny Hill, Jennifer Deachin,  
Michael McKerley, Kenneth R. Behrend, Pamela Behrend, Jeff  
Williams, Sabrina Williams f/k/a Sabrina Habib, and Janet K. Wood*

/s/ John E. Goodman  
John E. Goodman